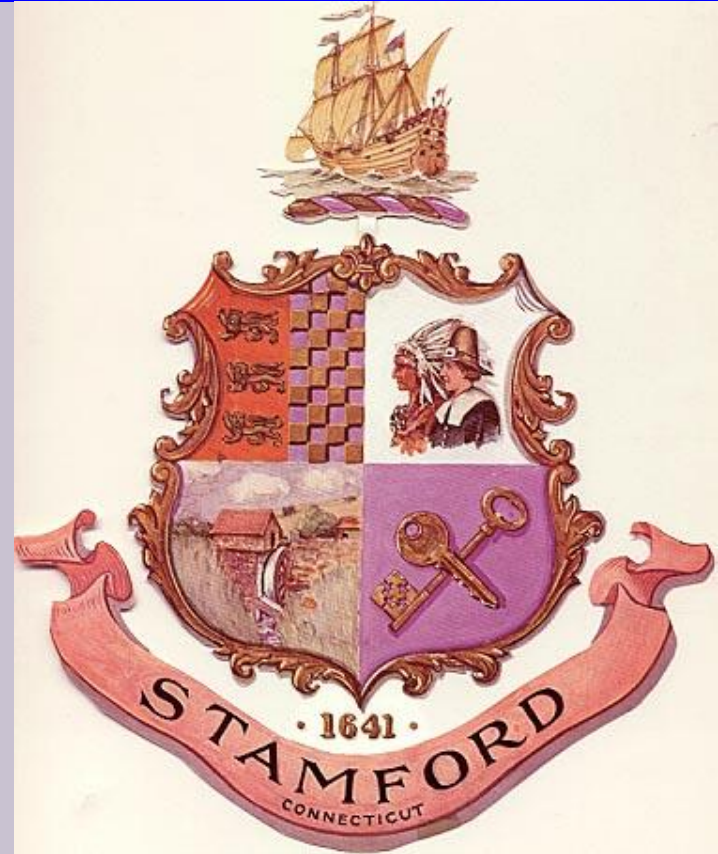


# Discrimination & Harassment



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# Agenda



- Review the law (The EEOC requires this!)
- Talk about the City of Stamford's Policies and Procedures
- Discuss the responsibility of both managers and employees
- Give you an opportunity to express your opinion on some hypotheticals. **However, I will not take questions from Celeste Baranowski because of her attitude.**

# Take away for attendees

- ❑ To know and understand the definition of employment discrimination;
- ❑ To know and be able to identify sexual harassment;
- ❑ To know and be able to identify behaviors that may be interpreted as sexual harassment or discriminatory in the workplace; and
- ❑ Give you some recommendations to avoid problems.

# What are we going to talk about?

If this were your seminar (Eric Newman) what would you talk about? (Do you know what is up?)

- Workplace conduct - what's acceptable and what's not - sexism, ageism, racism, dress, language, jokes.

# Virginia Swensson Why should you care and pay attention?

- Because in some cases employees have been held individually liable for discrimination and retaliation under both federal and state laws;
- Because if you are held personally liable, your employer may be prevented from helping you pay any court award.

# Consider this!

- ❖ According to a telephone poll conducted by Louis Harris and Associates on 782 workers revealed.
- ✓ 31% of the female workers claimed to have been harassed at work;
- ✓ 7% of the male workers claimed to have been harassed at work;
- ✓ 59% of the men claimed the harasser was a woman and the other 41% claimed the harasser was another man;
- ✓ Studies suggest anywhere between 40-70% of women and 10-20% of men have experienced sexual harassment in the workplace. .
- ✓ EEOC statistics indicate a much higher number of alleged harassment charges received from 2009 through 2011 than from 2000 through 2007. You would expect alleged harassment to drop during a stiffer economy where jobs are scarcer, but as you can see this was not the case.

# OF THE WOMEN WHO HAD BEEN SEXUALLY HARASSED:

- 43% were harassed by a supervisor
- 27% were harassed by an employee senior to them
- 19% were harassed by a coworker at their level
- 8% were harassed by a junior employee



# INTERESTING FACTS ABOUT SEXUAL HARASSMENT

- ▣ Twenty-five years ago much of the behavior we label sexual harassment was unrecognized, ignored, or tolerated as "...just the way things were."
- ▣ Today we have a name for this behavior, and it is viewed by the courts as a serious violation of the Civil Rights Act of 1964, and the Fourteenth Amendment to the United States Constitution.

# Why should you pay attention?

- ❑ Because this seminar could potentially save your employer \$\$\$\$; and
- ❑ **Because this seminar could save you \$\$\$\$!**

## **May 11, 2009 Hyundai Employee Awarded \$5.79 Million in Sexual Harassment Case**

The jury awarded \$795,000 in compensatory and \$5 million in punitive damages against Hyundai. **The jury also returned a \$10,000 punitive verdict against manager Mike Swindle.**

Swindle routinely directed lewd comments and gestures at Edwards, according to documents. On at least one occasion he pressed his body against hers while propositioning her. The harassment went on for five months, records show.

## Should Municipalities be concerned about these issues?

City worker awarded \$275,000 for retaliation; she complained of obscene language during a cable TV show shown in the employee break room. *Ericson v City of Meriden*, #3:99CV2143 (D. Conn.)

Police dispatcher accepts \$500,000 to drop her suit alleging she was fondled, was repeatedly solicited for sex and was required to view a pornographic video. *Naholnik v. Town of Waterford*, #3:93-CV-00683) (RNC).

# Ani Chopourian, a 43-year old surgeon's assistant, received a \$167.7 million dollar award in March 2012.

- ❖ The jury allocated \$42.7 million as compensation for lost wages and mental anguish.
- ❖ The balance - \$125 million – was awarded as punitive damages.
- ❖ The defendant – Mercy General Hospital –
- ❖ The harassment – being bullied by a surgeon who stabbed her with a needle;
- ❖ Another heart surgeon routinely greeted her with words, “I’m horny,” punctuated by a slap on her buttocks.
- ❖ Being grabbed by her waist and pulled into men’s laps.
- ❖ Being the subject to disparaging remarks about her Armenian heritage and called “a stupid chick.”

**Rose** would you know  
discrimination or harassment if  
it tapped you on the shoulder?



Now all of you who know **Eliot Spitzer** know how he fancies himself as a ladies man. When Eliot saw this woman in Mayor Pavia's office and approached her and said the following would it be discrimination or harassment?





Now those of you who know **Lynda Young** know how she loves to respond to frivolous E-Mail. Now if every time **Lynda** received a frivolous E-mail **she** responded with the following would **her** response be considered sexual harassment?

Oh, interesting. Let me just write that on my list of things I don't give a shit about.



What is the main civil rights law  
in the United States **Juliette**  
**Surgeon?**



# Title VII (1964)

**“It shall be an unlawful employment practice for an employer... to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual’s . . . .”**



# Protected Classes Under Title VII And most states and city human rights laws

- ❖ Race
- ❖ Color
- ❖ National Origin
- ❖ Religion
- ❖ Age
- ❖ Sex
- ❖ Creed
- ❖ Ancestry
- ❖ Citizenship/Alienage
- ❖ Sexual Orientation
- ❖ Marital Status
- ❖ Physical or Mental Disability
- ❖ AIDS or AIDS-Related Complex
- ❖ Genetic Predisposition or Genetic Carrier Status

# What are the protected classes in Connecticut

- ✓ Race ;
- ✓ Color;
- ✓ National Origin;
- ✓ Religion
- ✓ Sex (including pregnancy, childbirth, and related medical conditions;
- ✓ Age (40 and older);
- ✓ Disability: present or past physical, mental, learning, or mental retardation
- ✓ Genetic information
- ✓ Marital status (includes civil union)
- ✓ Sexual orientation (includes having a history of or being identified with a preference)
- ✓ AIDS/HIV.

# Who enforces law against discrimination in the workplace

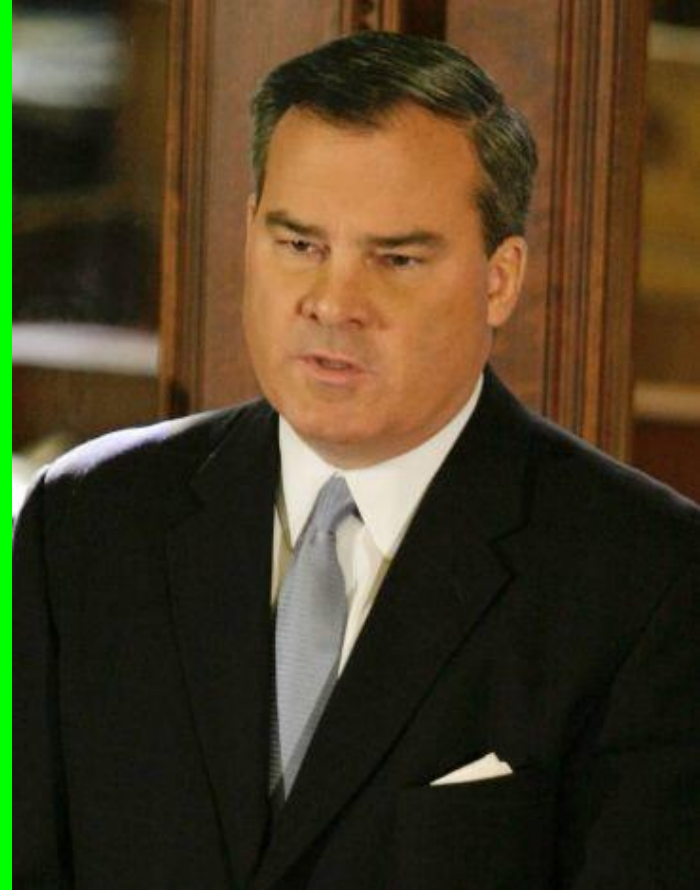
Under federal law the Equal Employment Opportunity Commission (EEOC) is the federal agency that regulates workplace discrimination.

The Commission on Human Rights and Opportunities (CHRO) enforces state anti-discrimination law in Connecticut.

# What is employment discrimination?

- ▣ **Employment Discrimination:** to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his/her compensation, terms, conditions, or privileges of employment, because of a protected classification (OK, can anyone put this in plain English?).
- ▣ Improperly motivated personnel decisions!

**Jeff Immelt, CEO of GE** decided that GE needed to hire more young people to fill government relations positions within the Company. **David Yanik** heard about the position and approached Jeff to tell **him** about his friend **former Governor John G. Rowland**, who is looking for a new opportunity. **Thomas Turk**, who is always ready to offer **his** two cents, told Jeff that **Rowland** was too old for the position and that GE needed to bring in new blood.



# What discrimination should employers care about?

- ▣ Doing something to someone at work because of something that has nothing to do with work.
  - Race
  - Sex
  - Age
  - Disability
  - Other legally protected classes.

# What is Harassment?

- ▣ Harassment: unwelcome conduct (based on a protected classification) that is either a term or condition of employment or that unreasonably interferes with an individual's job performance or creates an intimidating, hostile or offensive working environment.



# Sexual Harassment Facts!

- ▣ The victim can be a man or women;
- ▣ The victim can be of the same sex;
- ▣ The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or non-employee (A contractor);
- ▣ The victim doesn't have to be the person harassed but could be anyone affected by the offensive behavior; and
- ▣ Sexual harassment may occur without economic injury to or discharge of the victim.

# What is Sexual Harassment?

According to the Equal Employment Opportunity Commission (EEOC) sexual harassment is sexual attention that is:

**Unwelcome and unwanted – someone is treated in a way that he or she doesn't like or look for.**

**Harmful to employees and employers – it affects the victim's physical and emotional health and ability to do a good job, and it affects the workplace in general.**

**Illegal – the U.S. government and courts have clearly stated that sexual harassment is against the law and in some cases can be classified as criminal assault, battery or rape.**



# There are two kinds of sexual harassment

- ❖ Quid pro quo is Latin for "this for that" or "something for something" and refers to an exchange. In this case, the exchange is between employees, where one is asked to provide sexual favors in exchange for something else, such as favorable treatment in work assignments, pay or promotion.
- ❖ Hostile Environment - When unwelcome sexual conduct unreasonably interferes with an individual's job performance or creates an intimidating, hostile or offensive work environment.

# Sexual Orientation

Sexual Orientation protection applies only under local law, including Connecticut. However, recent Supreme Court decisions have broadened Federal prohibitions to include same-sex harassment.

- **discrimination based on actual or perceived sexual orientation is prohibited!**

# What Do You Know About Sexual Harassment?

## True or False?

Sexual harassment in the workplace is a form of workplace discrimination.

**TRUE.**

# Is this sexual harassment?

Gina's boss has never actually demanded sex in return for a promotion or pay increase (but her yearly increases are lower than others who have similar performance ratings and similar jobs) but he is always asking her to go out on dates with him in suggestive and unpleasant ways and sends her 'adult' emails from time to time. She has tried talking to him about it, but nothing changes.

# Sexual Harassment: Is it or is it not?

- ▣ A romantic affair is broken-off. The female continues to pursue the male. The male goes to the supervisor, who refuses to "get in the middle" and tells him to "man-up".
- ▣ *In this instance, the supervisor, the pursuer and the organization all could be liable for sexual harassment.*

An old prospector shuffled into the town of El Indio, Texas leading an old tired mule. The old man headed straight for the only saloon in town, to clear his parched throat. He walked up to the saloon and tied his old mule to the hitch rail. As he stood there, brushing some of the dust from his face and clothes, a young gunslinger stepped out of the saloon with a gun in one hand and a bottle of whiskey in the other.

The young gunslinger looked at the old man and laughed, saying, "Hey old man, have you ever danced?" The old man looked up at the gunslinger and said, "No, I never did dance... never really wanted to."

A crowd had gathered as the gunslinger grinned and said, "Well, you old fool, you're gonna' dance now," and started shooting at the old man's feet.

The old prospector, not wanting to get a toe blown off, started hopping around like a flea on a hot skillet. Everybody was laughing, fit to be tied.



When his last bullet had been fired, the young gunslinger, still laughing, holstered his gun and turned around to go back into the saloon. The old man turned to his pack mule, pulled out a double-barreled shotgun, and cocked both hammers. The loud clicks carried clearly through the desert air.

The crowd stopped laughing immediately. The young gunslinger heard the sounds too, and he turned around very slowly. The silence was almost deafening. The crowd watched as the young gunman stared at the old timer and the large gaping holes of those twin barrels.

The barrels of the shotgun never wavered in the old man's hands, as he quietly said, "Son, have you ever kissed a mule's ass?"

The gunslinger swallowed hard and said, "No sir..... but... I've always wanted to."

There are a few lessons for us all here:

- 1. Never be arrogant.**
- 2. Don't waste ammunition.**
- 3. Whiskey makes you think you're smarter than you are.**
- 4. Always, always make sure you know who has the power.**
- 5. Don't mess with old men, they didn't get old by being stupid.**
- 6. When you speak, know your audience.**



Any Questions before we talk  
about the E-mail system?

# E-Mail Policy Checklist

- **the E-Mail system is City property and should be used for business-related purposes only;**
- **The City may monitor the E-Mail system at any time to ensure that property is being used for business-related purposes;**
- **employees have no personal right to privacy in any communication created, sent or received in the E-Mail system;**
- **employees should disclose E-Mail messages only to authorized individuals;**

# E-Mail Policy Checklist (cont'd)

- **E-mail messages are permanent;**
- **Passwords are not confidential;**  
**Management may use its own**  
**supervisory passwords to monitor the**  
**E-mail system;**
- **Employees should refrain from using**  
**obscene, discriminatory or harassing**  
**language over the E-mail system;**
- **Employees should not disclose**  
**confidential proprietary information**  
**over the E-mail system;**



# E-Mail Checklist (cont'd)

- the E-Mail system is subject to the employer's no solicitation/no distribution rule;
- the E-Mail system is subject to the employer's discrimination and harassment policies;
- Misuse of the E-Mail system, including action that could be detrimental to the system, like sending e-mails to the entire City may result in discipline, including termination of employment.

# Dilemma

**You send an email to your neighbors supporting the BLT's proposed development of the south end of Stamford.**

***Is this appropriate stewardship of City resources?***



# Dilemma

**You send a brief email or make a brief, local call to check on your kids.**

***Is this appropriate stewardship of City resources?***

# Dilemma

**You send emails to your friend's home computer from your City computer regarding personal plans for the weekend.**

**❖ *Is this appropriate stewardship of City resources?***